

AMENDED IN SENATE JULY 1, 2015  
AMENDED IN SENATE MAY 27, 2015  
AMENDED IN ASSEMBLY MARCH 24, 2015  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 963**

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**Introduced by Assembly Member Bonilla**

February 26, 2015

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An act to amend Sections 22115, 22119.2, 22119.3, 22119.5, 22146, 22164.5, 26113, and 26135.7 of, and to add Sections 22119.6, 22458.3, 22458.5, and 22508.7 to, the Education Code, relating to state teachers' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 963, as amended, Bonilla. Teachers' Retirement Law.

Existing law, the Teachers' Retirement Law, establishes the Defined Benefit Program of the State Teachers' Retirement Plan, which provides a defined benefit to members of the program. The defined benefit is based on final compensation, credited service, and age at retirement, subject to certain variations. The State Teachers' Retirement System (STRS) is administered by the Teachers' Retirement Board. Existing law establishes the Cash Balance Benefit Program, also administered by the Teachers' Retirement Board, as a separate benefit program within the State Teachers' Retirement Plan in order to provide a retirement plan for persons employed to perform creditable service for less than 50% of full-time service.

This bill would revise and recast the definition of creditable service for purposes of the Defined Benefit Program and the Cash Balance Benefit Program, as specified. The bill would, among other things,

include as creditable service for the purposes of the Defined Benefit Program any activities that do not meet the definition of creditable service but were performed for an employer, as defined, on or before December 31, 2015, and were reported as creditable service to STRS. The bill would revise the definition of “member” to include any person who has performed those activities. The bill would allow members and specified retired members who have performed those activities to irrevocably elect to have that service subject to coverage under a different public retirement system and excluded from coverage by the Defined Benefit Program, as specified. The bill would also allow a person who had service for those activities removed from STRS and reported to a different public retirement system, as directed by STRS, to make an irrevocable election to have all of that service and subsequent service in the same position be subject to coverage by the Defined Benefit Program and excluded from that other system.

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*Among other things, the bill would provide that payment for certain part-time creditable service performed by a STRS member as an outgrowth of a school instructional and guidance program be calculated based upon the average compensation earnable for all active members in a prior fiscal year, as specified. The bill would also require employers, upon request of the system, to provide the system with information relating to time creditable service activities and provisions of approved charters to perform creditable service, as specified. The bill would include within the definition of creditable service specified activities performed by consulting teachers in the California Peer Assistance and Review Program.*

The bill would make other conforming, nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     **SECTION 1.** *Section 22115 of the Education Code is amended*
- 2     *to read:*
- 3     22115. (a) “Compensation earnable” means the creditable
- 4     compensation a person could earn in a school year for creditable
- 5     service performed on a full-time basis, excluding service for which
- 6     contributions are credited by the system to the Defined Benefit
- 7     Supplement Program.

1 (b) The board may determine compensation earnable for persons  
2 employed on a part-time basis.

3 (c) If service credit for a school year is less than 1.000,  
4 compensation earnable shall be the quotient obtained when  
5 creditable compensation paid in that year is divided by the service  
6 credit for that year, except as provided in subdivision (d).

7 (d) If a member earns creditable compensation at multiple pay  
8 rates during a school year and service credit at the highest pay rate  
9 is at least 0.900 of a year, compensation earnable shall be  
10 determined as if all service credit for that year had been earned at  
11 the highest pay rate. This subdivision shall be applicable only for  
12 purposes of determining final compensation. If a member earns  
13 creditable compensation at multiple pay rates during a school year  
14 and service credit at the highest pay rate is less than 0.900 of a  
15 year, compensation earnable shall be determined pursuant to  
16 subdivision (c).

17 (e) If creditable service is not performed on a full-time basis  
18 because a member is performing those activities pursuant to  
19 ~~paragraph (6) of subdivision (a)~~ (d) of Section 22119.5,  
20 compensation earnable for those activities ~~shall be determined as~~  
21 ~~if the creditable compensation had been earned at the lowest pay~~  
22 ~~rate for other creditable service activities performed by the member~~  
23 ~~for the same employer during the same school year. shall, in any~~  
24 ~~one school year, be an amount determined by the system on or~~  
25 ~~before each July 1 equal to the average compensation earnable~~  
26 ~~of all active members during the fiscal year ending in the previous~~  
27 ~~calendar year.~~

28 (f) (1) Except as provided in subdivision (g), for purposes of  
29 determining compensation earnable for a member employed by a  
30 community college prior to July 1, 1996, full time shall be defined  
31 pursuant to Section 22138.5 and pursuant to Section 20521 of Title  
32 5 of the California Code of Regulations, as those provisions read  
33 on June 30, 1996, if application of that definition will increase the  
34 compensation earnable or otherwise enhance the benefits of the  
35 member.

36 (2) For purposes of administering this subdivision, the board  
37 shall have the authority to do both of the following:

38 (A) Establish and implement factors and assumptions necessary  
39 to calculate and compare the benefits payable under the definition  
40 of compensation earnable described in this subdivision. Those

1 factors and assumptions may be based on information reported by  
2 the employer, including, but not limited to, all of the following:

- 3 (i) Base hours.
- 4 (ii) Actual earnings.
- 5 (iii) Compensation earnable.

6 (B) Review member benefit calculations that were performed  
7 using the factors and assumptions described in subparagraph (A).  
8 If the board determines that an employer failed to identify part-time  
9 service performed, the board shall consider that part-time service  
10 to be performed in a part-time lecture assignment as defined by  
11 the employer. If the board determines by the review of the member  
12 benefit calculations that the required information reported by the  
13 employer is inaccurate, incomplete, or the factors and assumptions  
14 were applied incorrectly, the board may recalculate member  
15 benefits using additional factors and assumptions that may include,  
16 but are not limited to, all of the following:

- 17 (i) Base hours.
- 18 (ii) Actual earnings.
- 19 (iii) Compensation earnable.

20 (3) This subdivision shall apply to a member employed by a  
21 community college prior to July 1, 1996, if the community college  
22 subsequently acts to reduce the minimum standard for full time as  
23 described in subdivision (c) of Section 22138.5 for the class of  
24 employees, and that community college provides written notice  
25 to the system of the act of the community college to reduce that  
26 minimum standard.

27 (4) This subdivision shall not apply to a member employed by  
28 a community college that has not reduced the minimum standard  
29 as described in subdivision (c) of Section 22138.5.

30 (g) Subdivision (f) shall not apply to a member subject to the  
31 California Public Employees' Pension Reform Act of 2013.

32 **SECTION 1.**

33 *SEC. 2.* Section 22119.2 of the Education Code is amended to  
34 read:

35 22119.2. (a) "Creditable compensation" means remuneration  
36 that is paid in cash by an employer to all persons in the same class  
37 of employees for performing creditable service in that position.  
38 Creditable compensation shall include:

1 (1) Salary or wages paid in accordance with a publicly available  
2 written contractual agreement, including, but not limited to, a  
3 salary schedule or employment agreement.

4 (2) Remuneration that is paid in addition to salary or wages,  
5 provided it is paid to all persons who are in the same class of  
6 employees in the same dollar amount, the same percentage of  
7 salary or wages, or the same percentage of the amount being  
8 distributed.

9 (3) Remuneration that is paid for the use of sick leave, vacation  
10 leave, or an employer-approved compensated leave of absence,  
11 except as provided in paragraph (4) of subdivision (c).

12 (4) Member contributions that are picked up by an employer  
13 pursuant to Section 22903 or 22904.

14 (5) Amounts that are deducted from a member's remuneration,  
15 including, but not limited to, deductions for participation in a  
16 deferred compensation plan; deductions to purchase an annuity  
17 contract, tax-deferred retirement plan, or insurance program; and  
18 contributions to a plan that meets the requirements of Section 125,  
19 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United  
20 States Code.

21 (6) Any other payments the board determines to be "creditable  
22 compensation."

23 (b) Any creditable compensation determined by the system to  
24 have been paid to enhance a member's benefits shall not be credited  
25 under the Defined Benefit Program. Contributions on that  
26 compensation shall be credited to the Defined Benefit Supplement  
27 Program. A presumption by the system that creditable  
28 compensation was paid to enhance a member's benefits may be  
29 rebutted by the member or by the employer on behalf of the  
30 member. Upon receipt of sufficient evidence to the contrary, a  
31 presumption by the system that creditable compensation was paid  
32 to enhance the member's benefits may be reversed.

33 (c) "Creditable compensation" does not mean and shall not  
34 include:

35 (1) Remuneration that is not paid in cash or is not paid to all  
36 persons who are in the same class of employees.

37 (2) Remuneration that is paid for service that is not creditable  
38 service pursuant to Section 22119.5 or 22119.6.

39 (3) Remuneration that is paid in addition to salary or wages if  
40 it is not paid to all persons in the same class of employees in the

1 same dollar amount, the same percentage of salary or wages, or  
2 the same percentage of the amount being distributed pursuant to  
3 paragraph (2) of subdivision (a).

4 (4) Remuneration that is paid in exchange for the relinquishment  
5 of unused accumulated leave.

6 (5) Payments, including, but not limited to, those for  
7 participation in a deferred compensation plan; to purchase an  
8 annuity contract, tax-deferred retirement plan, or insurance  
9 program; and for contributions to a plan that meets the requirements  
10 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
11 26 of the United States Code when the cost is covered by an  
12 employer and is not deducted from the member's salary.

13 (6) Fringe benefits provided by an employer.

14 (7) Expenses paid or reimbursed by an employer.

15 (8) Severance pay, including lump-sum and installment  
16 payments, or money paid in excess of salary or wages to a member  
17 as compensatory damages or as a compromise settlement.

18 (9) Any other payments the board determines not to be  
19 "creditable compensation."

20 (d) An employer or individual who knowingly or willfully  
21 reports compensation in a manner inconsistent with subdivision  
22 (a) or (c) may be subject to prosecution for fraud, theft, or  
23 embezzlement in accordance with the Penal Code. The system  
24 may establish procedures to ensure that compensation reported by  
25 an employer is in compliance with this section.

26 (e) For purposes of this section, remuneration shall be considered  
27 paid if distributed to any person in the same class of employees  
28 who meets the qualifications or requirements specified in a publicly  
29 available written contractual agreement, including, but not limited  
30 to, a collective bargaining agreement or an employment agreement,  
31 as a condition of receiving the remuneration.

32 (f) This definition of "creditable compensation" reflects sound  
33 principles that support the integrity of the retirement fund. Those  
34 principles include, but are not limited to, consistent treatment of  
35 compensation throughout a member's career, consistent treatment  
36 of compensation among an entire class of employees, consistent  
37 treatment of compensation for the position, preventing adverse  
38 selection, and excluding from compensation earnable remuneration  
39 that is paid to enhance a member's benefits. The system shall  
40 determine the appropriate crediting of contributions between the

1 Defined Benefit Program and the Defined Benefit Supplement  
2 Program according to these principles, to the extent not otherwise  
3 specified pursuant to this part.

4 (g) The section shall become operative on July 1, 2002.

5 (h) This section shall not apply to a member subject to the  
6 California Public Employees' Pension Reform Act of 2013.

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 22119.3 of the Education Code is amended to  
9 read:

10 22119.3. (a) "Creditable compensation" for members who are  
11 subject to the California Public Employees' Pension Reform Act  
12 of 2013 means remuneration that is paid each pay period in which  
13 creditable service is performed for that position. Creditable  
14 compensation shall be paid in cash by an employer to all persons  
15 in the same class of employees in accordance with a publicly  
16 available written contractual agreement, including, but not limited  
17 to, a salary schedule or employment agreement. Creditable  
18 compensation shall include:

19 (1) Remuneration that is paid for the use of sick leave, vacation  
20 leave, or an employer-approved compensated leave of absence,  
21 except as provided in paragraph (4) of subdivision (b).

22 (2) Member contributions that are picked up by an employer  
23 pursuant to Section 22903 or 22904.

24 (3) Amounts that are deducted from a member's remuneration,  
25 including, but not limited to, deductions for participation in a  
26 deferred compensation plan; deductions to purchase an annuity  
27 contract, tax-deferred retirement plan, or insurance program; and  
28 contributions to a plan that meets the requirements of Section 125,  
29 401(a), 401(k), 403(b), 457(b), or 457(f) of Title 26 of the United  
30 States Code.

31 (4) Notwithstanding paragraphs (6) and (8) of subdivision (c)  
32 of Section 7522.34 of the Government Code, remuneration that is  
33 paid for creditable service that exceeds one year in a school year.

34 (b) "Creditable compensation" does not mean and shall not  
35 include:

36 (1) Remuneration that is not paid in cash or is not paid to all  
37 persons who are in the same class of employees.

38 (2) Remuneration that is paid for service that is not creditable  
39 service pursuant to Section 22119.5 or 22119.6.

1 (3) Remuneration that is not paid each pay period in which  
2 creditable service is performed for that position.

3 (4) Remuneration that is paid in exchange for the relinquishment  
4 of unused accumulated leave.

5 (5) Payments, including, but not limited to, those for  
6 participation in a deferred compensation plan; to purchase an  
7 annuity contract, tax-deferred retirement plan, or insurance  
8 program; and for contributions to a plan that meets the requirements  
9 of Section 125, 401(a), 401(k), 403(b), 457(b), or 457(f) of Title  
10 26 of the United States Code when the cost is covered by an  
11 employer.

12 (6) Fringe benefits provided by an employer.

13 (7) Expenses paid or reimbursed by an employer.

14 (8) Severance pay, including lump sum and installment  
15 payments, or money paid in excess of salary or wages to a member  
16 as compensatory damages or as a compromise settlement.

17 (9) Creditable compensation determined by the system to have  
18 been paid to enhance a member's benefit.

19 (10) Compensation paid to the member in lieu of benefits  
20 provided to the member by the employer or paid directly by the  
21 employer to a third party other than the system for the benefit of  
22 the member.

23 (11) Any one-time or ad hoc payments made to a member.

24 (12) Any employer-provided allowance, reimbursement, or  
25 payment, including, but not limited to, one made for housing,  
26 vehicle, or uniform.

27 (13) Any bonus paid in addition to compensation described in  
28 subdivision (a).

29 (14) Any other payments the board determines not to be  
30 "creditable compensation."

31 (c) (1) Except for purposes of calculating credited service in  
32 the Defined Benefit Program and for reporting compensation  
33 earnable on or after January 1, 2013, creditable compensation in  
34 any fiscal year shall not exceed:

35 (A) One hundred twenty percent of the "contribution and benefit  
36 base," as determined under Section 430(b) of the Social Security  
37 Act (42 U.S.C. Sec. 430(b)), on January 1, 2013, for a member  
38 whose service is not included in the federal system.

39 (B) One hundred percent of the "contribution and benefit base,"  
40 as determined under Section 430(b) of the Social Security Act (42



1 U.S.C. Sec. 430(b)), on January 1, 2013, for a member whose  
2 service is included in the federal system pursuant to any changes  
3 in state or federal law enacted on or after January 1, 2013.

4 (2) The system shall adjust the limit based on the annual changes  
5 to the Consumer Price Index for All Urban Consumers: U.S. City  
6 Average, calculated by dividing the Consumer Price Index for All  
7 Urban Consumers: U.S. City Average for the month of February  
8 in the fiscal year preceding the adjustment by the Consumer Price  
9 Index for All Urban Consumers: U.S. City Average for the month  
10 of February of the previous year rounded to the nearest thousandth.  
11 Notwithstanding paragraph (1) of subdivision (d) of Section  
12 7522.10 of the Government Code, the adjustment shall be effective  
13 annually on July 1, beginning July 1, 2014.

14 (3) The Legislature reserves the right to modify the requirements  
15 of this subdivision with regard to all members subject to this  
16 subdivision, except that the Legislature may not modify these  
17 provisions in a manner that would result in a decrease in benefits  
18 accrued prior to the effective date of the modification.

19 (4) This subdivision shall apply to compensation paid during  
20 the 2013–14 fiscal year and each fiscal year thereafter.

21 (d) An employer or individual who knowingly or willfully  
22 reports compensation in a manner inconsistent with subdivision  
23 (a) or (b) may be subject to prosecution for fraud, theft, or  
24 embezzlement in accordance with the Penal Code. The system  
25 may establish procedures to ensure that compensation reported by  
26 an employer is in compliance with this section.

27 (e) For purposes of this section, remuneration shall be considered  
28 paid if distributed to any person in the same class of employees  
29 who meets the qualifications or requirements specified in a publicly  
30 available written contractual agreement, including, but not limited  
31 to, a collective bargaining agreement or an employment agreement,  
32 as a condition of receiving the remuneration.

33 (f) This definition of “creditable compensation” reflects sound  
34 principles that support the integrity of the retirement fund. Those  
35 principles include, but are not limited to, consistent treatment of  
36 compensation throughout a member’s career, consistent treatment  
37 of compensation among an entire class of employees, consistent  
38 treatment of compensation for the position, preventing adverse  
39 selection, and excluding from creditable compensation  
40 remuneration that is paid to enhance a member’s benefits. The

1 system shall determine the appropriate crediting of contributions  
2 according to these principles, to the extent not otherwise specified  
3 pursuant to this part. A presumption by the system that creditable  
4 compensation was paid to enhance the member's benefits may be  
5 rebutted by the member or by the employer on behalf of the  
6 member. Upon receipt of sufficient evidence to the contrary, a  
7 presumption by the system that creditable compensation was paid  
8 to enhance the member's benefits may be reversed.

9 ~~SEC. 3.~~

10 SEC. 4. Section 22119.5 of the Education Code is amended to  
11 read:

12 22119.5. (a) "Creditable service" means any of the activities  
13 described in subdivision (b) performed for any of the following  
14 employers:

15 (1) A prekindergarten through grade 12 ~~employer~~ employer;  
16 *including the state*, in a position requiring certification  
17 qualifications as designated in regulations adopted by the  
18 Commission on Teacher Credentialing pursuant to Section 44001.

19 (2) A community college employer by a faculty member, as  
20 defined in Section 87003, in an academic position, as defined in  
21 subdivision (b) of Section 87001, or by an educational  
22 administrator, as defined in subdivision (b) of Section 87002,  
23 subject to the appropriate minimum standards adopted by the Board  
24 of Governors of the California Community Colleges pursuant to  
25 Section 87356, or pursuant to a contract between a community  
26 college district and the United States Department of Defense to  
27 provide vocational training.

28 (3) A charter school employer under the provisions of an  
29 approved charter for the operation of a charter school for which  
30 the charter school is eligible to receive state apportionment.

31 (b) The types of activities are any of the following:

32 (1) The work of teachers, instructors, district interns, and  
33 academic employees employed in the instructional program for  
34 pupils, including special programs such as adult education, regional  
35 occupation programs, child care centers, and prekindergarten  
36 programs pursuant to Section 22161.

37 (2) Education or vocational counseling, guidance, and placement  
38 services.

1 (3) The work of employees who plan courses of study to be  
2 used in California public schools, or research connected with the  
3 evaluation or efficiency of the instructional program.

4 (4) The selection, collection, preparation, classification,  
5 demonstration, or evaluation of instructional materials of any  
6 course of study for use in the development of the instructional  
7 program in California public schools, or other services related to  
8 California public school curriculum.

9 (5) The examination, selection, in-service training, mentoring,  
10 or assignment of teachers, principals, or other similar personnel  
11 involved in the instructional program.

12 (6) The work of nurses, physicians, speech therapists,  
13 psychologists, audiometrists, audiologists, and other California  
14 public school health professionals.

15 (7) Services as a California public school librarian.

16 (8) Activities connected with the enforcement of the laws  
17 relating to compulsory education, coordination of child welfare  
18 activities involving the school and the home, and the school  
19 adjustment of pupils.

20 (9) The work of employees who are responsible for the  
21 supervision of persons or administration of the duties described  
22 in this subdivision.

23 (c) “Creditable service” also means ~~the work of superintendents~~  
24 *any of the activities described in subdivision (b) when they are*  
25 *performed for an employer by:*

26 (1) *Superintendents* of California public schools, and presidents  
27 and chancellors of community college employers.

28 (2) *Consulting teachers employed by an employer to participate*  
29 *in the California Peer Assistance and Review Program for*  
30 *Teachers pursuant to Article 4.5 (commencing with Section 44500)*  
31 *of Chapter 3 of Part 25 of Division 3 of Title 2.*

32 (d) “Creditable service” also means the performance of  
33 California public school activities related to, and an outgrowth of,  
34 the instructional and guidance program of the California public  
35 school when performed for the same employer for which the  
36 member is performing any of the activities described in subdivision  
37 (b) or (c).

38 (e) (1) All of the activities performed in a position shall be  
39 deemed “creditable service” if the employer requires one or more  
40 of the activities described in subdivision (b) or (c) to be performed

1 in that position for more than 50 percent of full time, as established  
2 pursuant to Section 22138.5, for a class of employees performing  
3 just those activities described in subdivision (b).

4 (2) ~~This subdivision~~ *Paragraph (1)* shall not apply to a person  
5 ~~who performs creditable service~~ *position established* for fewer  
6 days or hours than the employer requires for full time ~~as established~~  
7 pursuant to Section 22138.5.

8 (3) All of the activities performed in a position with service that  
9 has been deemed creditable pursuant to paragraph (1) shall be  
10 subject to coverage under the Defined Benefit Program until the  
11 member performing the activities becomes employed by the same  
12 or a different employer in a different position at which time an  
13 election may be made under Section 22508.

14 (f) The board shall have final authority for determining  
15 creditable service to cover any activities not already specified.

16 ~~SEC. 4.~~

17 *SEC. 5.* Section 22119.6 is added to the Education Code, to  
18 read:

19 22119.6. (a) Creditable service shall also include any activities  
20 that do not meet the definition of creditable service under Section  
21 22119.5, but were performed for any employer, as defined in  
22 Section 22131, on or before December 31, 2015, and were reported  
23 as creditable service to the system.

24 (b) The type of activities described in subdivision (a) performed  
25 by a member who becomes employed by the same or a different  
26 employer in a new position on or after January 1, 2016, shall be  
27 subject to Section 22119.5.

28 ~~SEC. 5.~~

29 *SEC. 6.* Section 22146 of the Education Code is amended to  
30 read:

31 22146. "Member" means any person, unless excluded under  
32 other provisions of this part, who has performed creditable service  
33 as defined in Section 22119.5 or 22119.6 and has earned creditable  
34 compensation for that service and has not received a refund for  
35 that service and, as a result, is subject to the Defined Benefit  
36 Program. A member's rights and obligations under this part with  
37 respect to the Defined Benefit Program shall be determined by the  
38 applicability of subdivision (a), (b), (c), or (d), and subject to any  
39 applicable exceptions under other provisions of this part.

1 (a) An active member is a member who is not retired or disabled  
2 and who earns creditable compensation during the school year.

3 (b) An inactive member is a member who is not retired or  
4 disabled and who has not earned creditable compensation during  
5 the current or preceding school year.

6 (c) A disabled member is a member to whom a disability  
7 allowance is payable under Chapter 25 (commencing with Section  
8 24001).

9 (d) A retired member is a member who has terminated  
10 employment and has retired for service under the provisions of  
11 Chapter 27 (commencing with Section 24201), or has retired for  
12 disability under the provisions of Chapter 26 (commencing with  
13 Section 24100) or retired for service or disability under the  
14 provisions of Chapter 21 (commencing with Section 23400), and  
15 to whom a retirement allowance is therefore payable.

16 ~~SEC. 6.~~

17 *SEC. 7.* Section 22164.5 of the Education Code is amended to  
18 read:

19 22164.5. (a) “Retired member activities” means one or more  
20 activities identified in subdivision (b), (c), or (d) of Section 22119.5  
21 or subdivision (b), (c), or (d) of Section 26113 within the California  
22 public school system and performed by a member retired for  
23 service under this part as one of the following:

24 (1) An employee of an employer.

25 (2) An employee of a third party, except as specified in  
26 subdivision (b).

27 (3) An independent contractor.

28 (b) The activities of an employee of a third party shall not be  
29 included in the definition of “retired member activities” if all of  
30 the following conditions apply:

31 (1) The employee performs an assignment of 24 months or less.

32 (2) The third-party employer does not participate in a California  
33 public pension system.

34 (3) The activities performed by the individual are not normally  
35 performed by employees of an employer, as defined in Section  
36 22131.

37 ~~SEC. 7.~~

38 *SEC. 8.* Section 22458.3 is added to the Education Code, to  
39 read:

1     22458.3. Upon request from the system, each employer shall  
2     provide the system with information regarding the percentage of  
3     time that creditable service activities, as described in paragraph  
4     (1) of subdivision (e) of Section 22119.5, are performed in a  
5     position.

6     ~~SEC. 8.~~

7     SEC. 9. Section 22458.5 is added to the Education Code, to  
8     read:

9     22458.5. Upon request from the system, each employer shall  
10    provide the system with information regarding the certification  
11    qualifications, minimum standards, or provisions of an approved  
12    charter for the operation of a charter school required to perform  
13    creditable service pursuant to subdivision (a) of Section 22119.5,  
14    in a position.

15    ~~SEC. 9.~~

16    SEC. 10. Section 22508.7 is added to the Education Code, to  
17    read:

18    22508.7. (a) This section shall apply to service deemed  
19    creditable service pursuant to subdivision (a) of Section 22119.6  
20    and a person who performs that service.

21    (b) (1) A member, including a member who retires on or before  
22    December 31, 2015, may elect to have all of that service subject  
23    to coverage by a different public retirement system and excluded  
24    from coverage by the Defined Benefit Program, if the member is  
25    not excluded from coverage by that public retirement system.

26    (2) If an election is made pursuant to this subdivision, all of the  
27    following shall apply:

28    (A) All service that was subject to coverage by the Defined  
29    Benefit Program shall be subject to coverage by the other public  
30    retirement system, if the member is not excluded from coverage  
31    by that public retirement system.

32    (B) Any member contributions and credited interest, as  
33    determined by the system, and employer contributions, less any  
34    amounts previously paid to the person, shall be returned to the  
35    employer for that service, with the system recovering from the  
36    person any amounts that were paid to the person and not recovered  
37    from withheld member contributions, credited interest, or employer  
38    contributions.

1 (C) Any amounts not recovered pursuant to subparagraph (B)  
2 shall be paid in full by the member before his or her service can  
3 be subject to coverage by the other public retirement system.

4 (3) If an election is made pursuant to this subdivision, the  
5 following shall apply:

6 (A) A member not subject to the California Public Employees'  
7 Pension Reform Act of 2013 in the Defined Benefit Program shall  
8 not be subject to that act in the other public retirement system.

9 (B) A member subject to the California Public Employees'  
10 Pension Reform Act of 2013 in the Defined Benefit Program shall  
11 be subject to that act in the other public retirement system.

12 (4) If an election is not made pursuant to this subdivision, all  
13 service performed shall continue to be subject to coverage by the  
14 Defined Benefit Program until the member becomes employed  
15 pursuant to subdivision (b) of Section 22119.6.

16 (c) (1) A person who had service removed from the system and  
17 reported to a different public retirement system, as directed by the  
18 system, including a person who is receiving a benefit on or before  
19 December 31, 2015, may elect to have all of that service and  
20 subsequent service in the same position subject to coverage by the  
21 Defined Benefit Program and excluded from coverage by the other  
22 public retirement system.

23 (2) If an election is made pursuant to this subdivision, all of the  
24 following shall apply:

25 (A) All of that service and subsequent service in the same  
26 position that was subject to coverage by the other public retirement  
27 system shall be subject to coverage by the Defined Benefit Program  
28 and reported to the system pursuant to Chapter 17 (commencing  
29 with Section 23000).

30 (B) Any employee and employer contributions for that service  
31 and subsequent service in the same position shall be remitted to  
32 the system pursuant to Chapter 17 (commencing with Section  
33 23000).

34 (3) If an election is made pursuant to this subdivision, the  
35 following shall apply:

36 (A) A person not subject to the California Public Employees'  
37 Pension Reform Act of 2013 in the other public retirement system  
38 shall not be subject to that act in the Defined Benefit Program.

(B) A person subject to the California Public Employees' Pension Reform Act of 2013 in the other public retirement system shall be subject to that act in the Defined Benefit Program.

(4) If an election is not made pursuant to this subdivision, all service performed will continue to be subject to coverage by the other public retirement system.

(d) The election shall be made in writing and filed with the office of the system on a form prescribed by the system on or before June 30, 2016, and a copy of the election shall be filed with the other public retirement system.

(e) Only a person who has performed service creditable under subdivision (a) of Section 22119.6 can make an election under this section.

(f) An election made pursuant to this section shall be irrevocable.

(g) The board shall be under no obligation to identify, locate, or notify a person who has performed service creditable pursuant to subdivision (a) of Section 22119.6 and is eligible to make an election pursuant to this section.

~~SEC. 10.~~

*SEC. 11.* Section 26113 of the Education Code is amended to read:

26113. (a) "Creditable service" means any of the activities described in subdivision (b) performed for any of the following employers:

(1) A prekindergarten through grade 12 ~~employer~~ *employer*, including the state, in a position requiring certification qualifications as designated in regulations adopted by the Commission on Teacher Credentialing pursuant to Section 44001.

(2) A community college employer by a faculty member, as defined in Section 87003, in an academic position, as defined in subdivision (b) of Section 87001, or by an educational administrator, as defined in subdivision (b) of Section 87002, subject to the appropriate minimum standards adopted by the Board of Governors of the California Community Colleges pursuant to Section 87356, or pursuant to a contract between a community college district and the United States Department of Defense to provide vocational training.

(3) A charter school employer under the provisions of an approved charter for the operation of a charter school for which the charter school is eligible to receive state apportionment.



1 (b) The types of activities are any of the following:

2 (1) The work of teachers, instructors, district interns, and  
3 academic employees employed in the instructional program for  
4 pupils, including special programs such as adult education, regional  
5 occupational programs, child care centers, and prekindergarten  
6 programs pursuant to Section 22161.

7 (2) Education or vocational counseling, guidance, and placement  
8 services.

9 (3) The work of employees who plan courses of study to be  
10 used in California public schools, or research connected with the  
11 evaluation or efficiency of the instructional program.

12 (4) The selection, collection, preparation, classification,  
13 demonstration, or evaluation of instructional materials of any  
14 course of study for use in the development of the instructional  
15 program in California public schools, or other services related to  
16 California public school curriculum.

17 (5) The examination, selection, in-service training, mentoring,  
18 or assignment of teachers, principals, or other similar personnel  
19 involved in the instructional program.

20 (6) The work of nurses, physicians, speech therapists,  
21 psychologists, audiometrists, audiologists, and other California  
22 public school health professionals.

23 (7) Services as a California public school librarian.

24 (8) Activities connected with the enforcement of the laws  
25 relating to compulsory education, coordination of child welfare  
26 activities involving the school and the home, and the school  
27 adjustment of pupils.

28 (9) The work of employees who are responsible for the  
29 supervision of persons or administration of the duties described  
30 in this subdivision.

31 (10) Trustee service as described in Section 26403.

32 (c) “Creditable service” also means ~~the work of superintendents~~  
33 *any of the activities described in subdivision (b) when they are*  
34 *performed for an employer by:*

35 (1) *Superintendents* of California public schools, and presidents  
36 and chancellors of community college employers.

37 (2) *Consulting teachers employed by an employer to participate*  
38 *in the California Peer Assistance and Review Program for*  
39 *Teachers pursuant to Article 4.5 (commencing with Section 44500)*  
40 *of Chapter 3 of Part 25 of Division 3 of Title 2.*

(d) “Creditable service” also means the performance of California public school activities related to, and an outgrowth of, the instructional and guidance program of the California public school when performed for the same employer for which the member is performing any of the activities described in subdivision (b) or (c).

(e) The board shall have final authority for determining creditable service to cover activities not already specified.

~~SEC. 11.~~

*SEC. 12.* Section 26135.7 of the Education Code is amended to read:

26135.7. (a) “Retired participant activities” means one or more activities identified in subdivision (b), (c), or (d) of Section 22119.5 or (b), (c), or (d) of Section 26113 within the California public school system and performed by a participant retired for service under this part as one of the following:

(1) An employee of an employer.

(2) An employee of a third party, except as specified in subdivision (b).

(3) An independent contractor.

(b) The activities of an employee of a third party shall not be included in the definition of “retired participant activities” if all of the following conditions apply:

(1) The employee performs an assignment of 24 months or less.

(2) The third-party employer does not participate in a California public pension system.

(3) The activities performed by the individual are not normally performed by employees of an employer, as defined in Section 22131.